

MEMORANDUM FOR: Chief, Plans and Programs Staff

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FROM:

[REDACTED]
Chief, Procurement Management Staff

SUBJECT: H.R. 3494, The Delinquent Payments Act of 1981

REFERENCE: Multiple Addressee memo dtd 9 June 1981,
same subject (OLC 81-0256/7)

1. H.R. 3494 is a rehash of legislative proposals that have been stirring around for several years now. The primary thrust of many of the prior proposals to require payment of interest on delinquent payments has been to afford such penalty payments to small business concerns. It now appears that lobby groups are pushing for such penalty payments on all delinquent accounts whether they involve small or large businesses.

2. We see great expense to the Government if such proposed legislation is enacted into law. The cost will occur, of course, from the additional funds that are required to pay interest on delinquent accounts, but in my opinion this item of cost will be small compared to the cost which will result from the necessity to employ additional personnel to administer contracts and payments under contracts. Almost certain to develop will be the serious questions about the causes for the delinquency in payment. Such questions are whether the contractor's invoice was received on a timely basis, whether the contractor's invoice was accurate in all respects, or whether the goods have been received and moreover received in satisfactory condition, and whether the terms of the contract applicable to payment were clear to both parties. Another problem area that I envision in the payment of interest on delinquent accounts is the whole area of settlement. This is an area where hundreds of contracts on such work has been completed, but on which final payment has not been made. This delay in the final payment can result from a number of factors, such as settlement of overhead amounts, clearance of property accounts, and filing of patents and other certifications.

3. The moving force behind the proposed legislation is, of course, the various lobby groups representing special interest and the high cost of money which is increasing the contractor's operating expense. I believe that the Federal Government should make a maximum effort to pay its contractors on time, but that we should as an Agency continue to go on record as being opposed to the payment of interest on delinquent accounts. The possible results of such legislation in terms of additional manpower requirements and resulting costs are too great to take other than a negative position.

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cc: D/L